

in which the husband went to live with the wife at her childhood home. In the father family the wife, obtained by capture or purchase, belonged to her husband on the analogy of property. The husband could reject or throw away his property if he saw fit. It is clear that the physical facts attendant on the two customs—one that the man went to live with his wife, the other that he took her to his home — made a great difference in the status of the woman. In the latter case she fell into dependence and subjection to the dominion of her husband. She could not divorce him.

391. In Chaldea a man could divorce his wife by saying, "Thou art not my wife," by repaying her dowry, and giving her a letter to her father. If she said to him, "Thou art not my husband," she was drowned. An adulterous woman was driven into the street clothed only in a loin cloth, at the mercy of the passers.¹ In this view, which ran through the Jewish system and came down into that of Mohammed, a wife has duties, to which her husband has no correlative obligations. She must do her duty or be thrust out. There is no adultery for a man and no divorce for a woman. The most complete negation of divorce is in Hindostan, where a woman (perhaps a child of five or six), if married to a man, is his only, for time and eternity, no matter what may happen. He is hers until she dies, but then he can have another wife. Romulus allowed divorce to the man, if the woman poisoned infants, drank strong wine, falsified keys, or committed adultery.² By a law of Numa a man who had as many children as he wanted could cede his wife, temporarily or finally, to another.³ These laws seem to have been forgotten. If they ever really existed they did not control early Roman society. By the later law a sentence for crime which produced civil death set free the other spouse. In the last century B.C. divorce became very easy and customary. The mores gradually relaxed to allow it. Augustus compelled the husband of Livia to divorce her because he wanted her himself. She was about to become a mother.⁴ Cato the younger gave his wife to his friend Hortensius, and took her back after Hortensius's death.⁵

Sempronius Sophus
divorced his wife because she went to the games without
his consent.⁶
Women also divorced their husbands in the first century of
the Christian era,
Juvenal mentions a woman who had eight husbands in five
years.⁷ Tertullian,
writing from the standpoint of a Christian ascetic, said that "
divorce is the
product of marriage."⁸ Jerome knew of a woman who had
married her
twenty-third husband, she being his twenty-first wife.⁹
Seneca said that the

¹ Maspero, *Peuples de FOrient*, I, 736. ^c Valer. Maxim., VI, 3,
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² Plutarch, *Romulus*, 22.

⁷ *Sat.*, VI, 230. ⁸

⁸ Plutarch, *Comp* of Numa and Lykurgus*.
Apolog ^ 6.

⁴ Tacitus, *Annals*-, I, 10.

⁹ *Epist*, 2.

⁵ Plutarch, *Cato*.